

EXHIBIT 118

1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3
4 _____
5 JOHN P. "JACK" FLYNN, ET AL,

6 Plaintiffs,

7 v.

Index No.

8 CABLE NEWS NETWORK, INC.,

1:21cv02587

9 Defendant.

GHW

10 _____
11 VIDEOTAPED DEPOSITION OF

12 JESSE BINNALL

13 DATE: Monday, June 26, 2023

14 TIME: 10:03 a.m.

15 LOCATION: Remote Proceeding

Washington, D.C. 20005

16 REPORTED BY: Matthew Yancey, Notary Public

17 JOB NO.: 5974792

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<p>1 APPEARANCES</p> <p>2 ON BEHALF OF PLAINTIFF JOHN P. "JACK" FLYNN:</p> <p>3 STEVEN S. BISS, ESQUIRE (by videoconference)</p> <p>4 Steven S. Biss Law Offices</p> <p>5 300 West Main Street, Suite 102</p> <p>6 Charlottesville, VA 22903</p> <p>7 stevenbiss@earthlink.net</p> <p>8 (804) 501-8272</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANT CABLE NEWS NETWORK, INC.:</p> <p>11 KATHERINE M. BOLGER, ESQUIRE (by</p> <p>12 videoconference)</p> <p>13 Davis Wright Tremaine, LLP</p> <p>14 1251 Avenue of the Americas, 21st Floor</p> <p>15 New York, NY 10020</p> <p>16 katebolger@dwt.com</p> <p>17 (212) 402-4068</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 INDEX</p> <p>2 EXAMINATION: PAGE</p> <p>3 By Ms. Bolger 8</p> <p>4</p> <p>5 EXHIBITS</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Exhibit 430</p> <p>Jesse Binnall Expert Report 10</p> <p>8 Exhibit 431</p> <p>Tracy Diaz Objection Letter</p> <p>9 Re Flynn v. CNN 21</p> <p>10 Exhibit 432</p> <p>Binnall Tweet 4/30/2020 29</p> <p>11 Exhibit 433</p> <p>Binnall Tweet 1/24/2023 33</p> <p>12 Exhibit 434</p> <p>Binnall Tweet 3/3/2023 36</p> <p>13 Exhibit 435</p> <p>Binnall Tweet 3/3/2023 -</p> <p>14 Tweet From General Flynn</p> <p>15 Dated March 3rd 38</p> <p>16 Exhibit 436</p> <p>Binnall Tweet 9/28/2020 40</p> <p>17 Exhibit 437</p> <p>Binnall Tweet 7/3/2021 41</p> <p>18 Exhibit 438</p> <p>Binnall Tweet 5/16/2022 -</p> <p>19 Dan Rather 43</p> <p>20 Exhibit 439</p> <p>Binnall Tweet 3/26/2022 45</p> <p>21 Exhibit 440</p> <p>In Re Steven Scott Biss,</p> <p>22 2022 WL 1097470 (3/9/2022) 67</p>
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<p>1 APPEARANCES (Cont'd)</p> <p>2 ON BEHALF OF DEFENDANT CABLE NEWS NETWORK, INC.:</p> <p>3 MEENAKSHI KRISHNAN, ESQUIRE (by</p> <p>4 videoconference)</p> <p>5 Davis Wright Tremaine, LLP</p> <p>6 1301 K Street, Northwest, Suite 500</p> <p>7 Washington, D.C. 20005</p> <p>8 meenakshikrishnan@dwt.com</p> <p>9 (202) 973-4239</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 David Campbell, Videographer (by</p> <p>13 videoconference)</p> <p>14 Alexa Pastor, Technician (by videoconference)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 EXHIBITS (Cont'd)</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 441</p> <p>Lokhova v. Halper, 441 F.</p> <p>4 Supp. 3d 238 (E.D. Va. 2020) 70</p> <p>5 Exhibit 442</p> <p>Anderson v. School Board</p> <p>6 Gloucester County, 2020 WL</p> <p>7 4719091 73</p> <p>8 Exhibit 443</p> <p>Lokhova v. Halper, 995 F.3d</p> <p>9 134 (4th Cir 2021) 86</p> <p>10</p> <p>11 DOCUMENTS REQUESTED</p> <p>12 NO. DESCRIPTION PAGE</p> <p>13 1 Summaries 79</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">Page 6</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: We are going on the</p> <p>3 record at 10:03 a.m. on June 26, 2023. This is Media</p> <p>4 unit number 1 of the videorecorded deposition of Jesse</p> <p>5 Binnall. This is taken in the matter of John P.</p> <p>6 "Jack" Floyd [sic] -- John P. "Jack" Flynn, et al, vs.</p> <p>7 Cable News Network, Inc. This is a remote Zoom video</p> <p>8 deposition in the Eastern time zone.</p> <p>9 My name is David Campbell representing</p> <p>10 Veritext, and I am the videographer. The court</p> <p>11 reporter today is Matt Yancey, also with Veritext.</p> <p>12 Counsel, at this time will you please</p> <p>13 announce yourselves for the record after which the</p> <p>14 court reporter will please swear in the witness and we</p> <p>15 can proceed.</p> <p>16 MS. BOLGER: Katherine Bolger and Meena</p> <p>17 Krishnan from Davis Wright Tremaine on behalf of CNN.</p> <p>18 MR. BISS: I'm Steve Biss. I represent</p> <p>19 the plaintiffs.</p> <p>20 MS. BOLGER: I think that's it.</p> <p>21 THE REPORTER: All right. Good</p> <p>22 morning, everyone. Again, my name is Matt Yancey; I</p>	<p style="text-align: right;">Page 8</p> <p>1 JESSE BINNALL,</p> <p>2 called as a witness, and having been first duly sworn</p> <p>3 to tell the truth, the whole truth, and nothing but</p> <p>4 the truth, was examined and testified as follows:</p> <p>5 THE REPORTER: All right. Thank you.</p> <p>6 You may proceed.</p> <p>7 EXAMINATION</p> <p>8 BY MS. BOLGER:</p> <p>9 Q So I say Mr. Binnall but I've heard Mr.</p> <p>10 Binnall and I want to get it right. So how should I</p> <p>11 refer to you, sir?</p> <p>12 A Binnall is -- is correct.</p> <p>13 Q Okay. Great. So Mr. Binnall, as I said,</p> <p>14 I'm Kate Bolger. I'm a lawyer; I represent CNN in</p> <p>15 this litigation. I know this is not your first rodeo</p> <p>16 when it comes to depositions. Have you actually ever</p> <p>17 been a deponent before?</p> <p>18 A I was thinking about that, and I believe I</p> <p>19 have had my deposition taken at least once. Of</p> <p>20 course, I've taken many depositions and there was a</p> <p>21 proceeding that I was a witness in that I believe I</p> <p>22 gave a deposition for at least once.</p>
<p style="text-align: right;">Page 7</p> <p>1 am a reporter assigned by Veritext to take the record</p> <p>2 of this proceeding.</p> <p>3 I am a notary authorized to take</p> <p>4 acknowledgments and administer oaths in the District</p> <p>5 of Columbia. Parties agree that I will swear in the</p> <p>6 witness remotely.</p> <p>7 Additionally, absent any objection on</p> <p>8 the record before the witness is sworn, all parties</p> <p>9 and the witness understand and agree that any</p> <p>10 certified transcript produced from the recordings of</p> <p>11 this proceeding:</p> <p>12 - is intended for all uses permitted</p> <p>13 under applicable procedural and evidentiary rules and</p> <p>14 laws in the same manner as a deposition recorded by</p> <p>15 stenographic means; and</p> <p>16 - shall constitute written stipulation</p> <p>17 of such.</p> <p>18 Thank you. Hearing no objection, I</p> <p>19 will now swear in the witness.</p> <p>20 Mr. Binnall, please raise your right</p> <p>21 hand.</p> <p>22 WHEREUPON,</p>	<p style="text-align: right;">Page 9</p> <p>1 Q And what was that proceeding?</p> <p>2 A It had to do with 4600 Duke Street, which it</p> <p>3 was a condominium complex in Alexandria, Virginia. I</p> <p>4 do not remember the exact caption.</p> <p>5 Q Okay. Well, I don't need to give you the</p> <p>6 usual instructions because I know you know about</p> <p>7 depositions. But I will give you one that's sort of</p> <p>8 the Kate Bolger warning, which is that I do tend to</p> <p>9 speak very quickly. It is a function of being from</p> <p>10 New York, I think. So if I get to quick, you want to</p> <p>11 slow me down, I will. Give it, you know, the old</p> <p>12 college try to slow it down.</p> <p>13 So what did you do to prepare for today's</p> <p>14 deposition?</p> <p>15 A I reviewed my -- my report. And I also</p> <p>16 looked at the amended complaint in the case. I did</p> <p>17 have a brief conversation with counsel for the</p> <p>18 plaintiffs as well.</p> <p>19 Q Mr. Biss that is?</p> <p>20 A That's correct.</p> <p>21 Q Okay. Then you're here today to give expert</p> <p>22 testimony at the Plaintiff's request, right?</p>

<p style="text-align: right;">Page 10</p> <p>1 A That's correct.</p> <p>2 Q Okay. I'm going to ask -- just show you</p> <p>3 your report so we can just identify it for the record</p> <p>4 and then I'm going to ask you some questions about it.</p> <p>5 I can leave those portions of the report relevant to</p> <p>6 my questions on the screen or we can talk generally</p> <p>7 about it, however we feel it works. The purpose</p> <p>8 really is just to mark the exhibit.</p> <p>9 MS. BOLGER: So Alexa, can you put tab</p> <p>10 1 up?</p> <p>11 MS. PASTOR: Just a moment --</p> <p>12 BY MS. BOLGER:</p> <p>13 Q For the record, this is the Plaintiff's Rule</p> <p>14 26(a)(s) Expert Disclosure dated January 3, 2023, and</p> <p>15 it attaches your expert report.</p> <p>16 (Exhibit 430 was marked for</p> <p>17 identification.)</p> <p>18 MS. BOLGER: Alexa, if you just scroll</p> <p>19 down to the third page, you'll see the front of his --</p> <p>20 top of his expert report -- fourth page. Sorry.</p> <p>21 There it is.</p> <p>22 BY MS. BOLGER:</p>	<p style="text-align: right;">Page 12</p> <p>1 But I -- I certainly looked at the factors that</p> <p>2 are applicable in -- in Rhode Island law, and I also</p> <p>3 based it on my -- my own experience litigating cases,</p> <p>4 whether it be defamation cases or other cases. And</p> <p>5 what is -- is reasonable to incur as far as attorneys'</p> <p>6 fees and what is reasonable as far as the work that</p> <p>7 needs to be done in order to litigate a case like</p> <p>8 this.</p> <p>9 Q And you're not admitted to the Bar in Rhode</p> <p>10 Island; right?</p> <p>11 A No, ma'am. I am not.</p> <p>12 Q Okay. And what facts did you base your</p> <p>13 conclusion on?</p> <p>14 A The facts as -- as fully described in my</p> <p>15 report. I certainly did look at the complaint. I did</p> <p>16 review parts of the docket. I looked at some of the</p> <p>17 facts that were available that needed to be litigated,</p> <p>18 the motions that had to be litigated, and that in</p> <p>19 addition to everything else that's in my report.</p> <p>20 Q And did you review any depositions in this</p> <p>21 case?</p> <p>22 A No, I did not.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q And just for record purposes, Mr. Binnall,</p> <p>2 this is your expert report; correct?</p> <p>3 A It appears to be so, yes. Just the first</p> <p>4 page, but yeah.</p> <p>5 Q Right. Take my word for it, please, that</p> <p>6 the rest of it is there. And what were you asked to</p> <p>7 opine on?</p> <p>8 A I was -- I was asked to opine on the</p> <p>9 reasonableness of the attorneys' fees incurred by the</p> <p>10 plaintiffs in this case, Jack and Leslie Fynn. And</p> <p>11 for the -- the attorneys' fees that they have incurred</p> <p>12 and will incur in the process of this litigation.</p> <p>13 Q Great. And what was your expert conclusion?</p> <p>14 A My expert conclusion is that the arrangement</p> <p>15 that the plaintiffs have with their counsel, Mr. Biss,</p> <p>16 is reasonable -- is a reasonable agreement and that's</p> <p>17 to my reasonable degree of professional certainty.</p> <p>18 Q And what is that conclusion based on?</p> <p>19 A That is based on everything that I put in</p> <p>20 the report. And, of course, the report goes into more</p> <p>21 detail than -- than I can, despite memory sitting</p> <p>22 right here with everything in the report.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Do you, as you sit here, know what documents</p> <p>2 CNN looked at in publishing your report at issue here?</p> <p>3 A Do I -- I'm sorry. I'm going to ask you to</p> <p>4 rephrase that question. Specifically it has to do</p> <p>5 with the report at issue here.</p> <p>6 Q So this is a defamation lawsuit as you know.</p> <p>7 A Yes.</p> <p>8 Q Sorry, it's a false light lawsuit. As you</p> <p>9 know, it was a defamation lawsuit. It is now a false</p> <p>10 light lawsuit and it's about a report on CNN that</p> <p>11 aired in February of 2021. Have you seen that report?</p> <p>12 A I -- I am aware of the report. I believe</p> <p>13 I've actually seen the video of it. I have also seen</p> <p>14 the -- the text and the chyron and what not involved</p> <p>15 in that, yes.</p> <p>16 Q Where did you see that?</p> <p>17 A I saw images of it, I believe, in the</p> <p>18 complaint and, you know, I don't -- I honestly don't</p> <p>19 remember sitting here today if I've -- if I've seen</p> <p>20 the video. I've certainly seen a lot of similar</p> <p>21 things on social media and that's just in the -- in</p> <p>22 the public domain. So I believe I saw it, but I don't</p>

<p style="text-align: right;">Page 14</p> <p>1 remember, and I don't remember where I saw it if I 2 did.</p> <p>3 Q Okay. Do you remember what happens in it?</p> <p>4 A I -- I mean, if you're discussing the video 5 itself of the report and the chyron, I can't give you 6 a word for description. I'm sure there's something I 7 could -- review to refresh my recollection on it 8 exactly but I wouldn't want to. And I don't think 9 there would be any beneficial -- benefit to me trying 10 to recite it from memory.</p> <p>11 Q Okay. I don't need you to recite it from 12 memory. I was just wondering on a high level if you 13 remember what happened in the report at issue in this 14 litigation?</p> <p>15 A At a high level, there was a video report 16 and a chyron that accused members of the Flynn family 17 of being supporters of QAnon based on a video.</p> <p>18 Q Okay. Do you know -- this was my original 19 question, which I think caused this foray into the 20 report. Do you know what documents CNN looked at 21 before they published the report?</p> <p>22 A No, I do not.</p>	<p style="text-align: right;">Page 16</p> <p>1 gave expert opinion -- expert opinion on parliamentary 2 procedure issues.</p> <p>3 I also have given expert testimony on the rules 4 of the Republican National Committee before as well.</p> <p>5 Q And both of those circumstances -- I'm 6 sorry, I hadn't realized that the testimony you gave 7 about the Duke Street apartment was expert opinions, 8 so I apologize if I asked that question twice.</p> <p>9 So in both of those circumstances, were you 10 giving an expert opinion on parliamentary procedures?</p> <p>11 A Effectively, yes. The -- the Duke Street on 12 was certainly on parliamentary procedure and I think 13 effectively, the Republican National Committee one was 14 -- was also based on my -- my knowledge as a 15 parliamentarian in addition to my -- my knowledge of - 16 - of party rules. So I would say effectively, yes, 17 that it was as a professional parliamentarian.</p> <p>18 Q Mr. Binnall, in another world you and I have 19 similarities. I was one a parliamentarian at the 20 University of Virginia, so there you go.</p> <p>21 A Oh.</p> <p>22 Q So Mr. Binnall, in your expertise as a</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Okay. So you're not here to express any 2 opinion on the meaning of the report; right?</p> <p>3 A Of CNN's report, no, I'm not.</p> <p>4 Q And you're not here to express an opinion on 5 the truth of CNN's report; right?</p> <p>6 A No, ma'am, I'm not.</p> <p>7 Q Nor are you here to express an opinion on 8 CNN's intent in publishing the report; right?</p> <p>9 A No, ma'am.</p> <p>10 Q Okay. So as I understand it, you are here 11 just to talk about the reasonableness of Mr. Biss's 12 fees; is that correct?</p> <p>13 A That's correct.</p> <p>14 Q No other expert conclusions; right?</p> <p>15 A That's correct.</p> <p>16 Q Okay. Have you ever been an expert before?</p> <p>17 A I have.</p> <p>18 Q In what circumstances?</p> <p>19 A As I -- as I told you, I think earlier, I 20 was an expert in a dispute regarding a condominium 21 complex at 4600 Duke Street in Alexandria. That was 22 around about 2009, 2010, I believe. And on that, I</p>	<p style="text-align: right;">Page 17</p> <p>1 parliamentarian has nothing to do with today's expert 2 report; right?</p> <p>3 A No, ma'am. It does not.</p> <p>4 Q Okay. In your report, and I can show you 5 it's on page 4 of your report, you reference 6 litigating many attorneys' fees disputes. What were 7 those?</p> <p>8 A Let's see. I have -- most recently, I've 9 been involved in litigating of attorney's fee dispute 10 involving sanctions in Virginia where our client has 11 asked for, and actually received at this point, 12 sanctions. And so, the issue of reasonableness of 13 attorneys' fees was at stake.</p> <p>14 I've also litigated attorneys' fees issues on a 15 number of matters that have -- that have settled. And 16 there's -- yeah, I -- much of my practice involves 17 Civil Rights actions, such as Section 1983 where 18 attorneys' fees can be awarded pursuant to 18 -- 42 19 USC 1988. And so, the attorneys' fee issue comes up 20 substantially.</p> <p>21 There was, you know, an issue in recent years 22 that comes to mind where we successfully defeated a</p>

<p style="text-align: right;">Page 18</p> <p>1 claim of a defendant for attorneys' fees under section 2 1988. Those are -- are ones that come to mind right 3 now. 4 Q What is the name of the first litigation you 5 discussed which has an ongoing sanctions question? 6 A Bella Gravida vs. Evans, I believe is the 7 name of it -- the caption. I -- yeah. 8 Q Okay. Where is it pending? 9 A Fairfax County Circuit Court. 10 Q All right. How did you come to be retained? 11 A Plaintiff for counsel, Mr. Biss, reached out 12 and asked if I could be engaged as a expert in this 13 matter and I agreed. 14 Q And your rate is \$650 an hour? 15 A Yes, ma'am. 16 Q How much have you been paid? 17 A I have not sent a bill in this case yet. I 18 have not done anything so far. 19 Q Okay. How much do you expect to charge? 20 A I -- I don't know. So far, other than 21 preparing for this deposition, I've -- I have expended 22 less than ten hours on this case, and I have not</p>	<p style="text-align: right;">Page 20</p> <p>1 A I should say -- should say nine lawyers that 2 we engage in one way or another. 3 Q Okay. And is Mr. Greaves an associate, a 4 partner, or of counsel? 5 A He's a -- he's a partner. 6 MS. BOLGER: Okay. You can put -- 7 you can take down Exhibit 1. 8 BY MS. BOLGER: 9 Q Mr. Binnall, are you aware that 10 Mr. Greaves represented a third-party in 11 this very matter? 12 A You know, I -- I don't know that 13 off the top of my head. That's something 14 that I could check on, but I don't know 15 that. 16 MS. BOLGER: Okay. Alexa, can you put 17 up tab 58 for me, please? 18 MS. PASTOR: Just a -- 19 BY MS. BOLGER: 20 Q This is the -- as you'll see, I'm going to 21 mark as Exhibit 431, a letter I received on October 22 10, 2022, which as you see is from Jason Greaves Of</p>
<p style="text-align: right;">Page 19</p> <p>1 totaled my hours for preparing for this deposition 2 today. And of course, there's the taking of the 3 deposition today. 4 Q Okay. And the preparation time for the 5 deposition, do you expect to be more or less than ten 6 hours? 7 A For the preparation time it will be less. 8 Q Okay. 9 A And I certainly hope the taking -- 10 Q Sorry. Certainly, what? 11 A And I hope the taking of the deposition as 12 well, so -- 13 Q You know, I'm known for my long depositions 14 Mr. Binnall, but I don't think I've got that much for 15 you today, so I'm sorry to disappoint. 16 So you have a colleague named Jason Greaves; 17 right? 18 A Yes, that's right. 19 Q Okay. And how many folks are in your law 20 firm? 21 A Nine. 22 Q All partners --</p>	<p style="text-align: right;">Page 21</p> <p>1 Counsel in the top right corner from the Binnall Law 2 Group. The subject line is "Objection to subpoena 3 duces tecum issued to Tracy Diaz, Flynn vs. CNN, No. 4 1:21-cv-2587 (S.D.N.Y.)." And it begins: "Dear 5 Ms. Bolger, I represent Tracy Diaz regarding the 6 unhinged subpoena you have issued to her in the above- 7 captioned case. The purpose of this letter is to raise 8 legal objections to the vastly overbroad and invasive 9 third-party discovery requests - over 200 in total - 10 that you seek to impose on Ms. Diaz. She will not be 11 responding to those requests as written." Do you see 12 that? 13 (Exhibit 431 was marked for 14 identification.) 15 A Yes, I see that. 16 Q Okay. Were you aware that this letter was 17 sent to me? 18 A I -- I was aware that we represent -- and 19 Jason specifically, represents Tracy Diaz. And I -- I 20 believe that I -- I knew about this specific 21 representation. I did not review this letter. 22 Q Okay. Sorry. I thought about it a minute</p>

<p style="text-align: right;">Page 22</p> <p>1 ago, you said you didn't remember it. Has this 2 refreshed your memory? 3 A This is -- this has refreshed my 4 recollection of course. A minute ago, you said a 5 third-party. Now that that third-party has been 6 identified, it has refreshed my recollection. 7 Q Okay. Does your firm represent Ms. Diaz in 8 a bunch of contexts? In other words, is she a regular 9 client? 10 A I believe we -- we represent her in more 11 than one matter. 12 MS. BOLGER: Okay. You can -- Alexa, 13 take that down, please. Thank you very much. 14 BY MS. BOLGER: 15 Q You also represent General Glynn; correct? 16 A Yes, ma'am. 17 Q And how long have you done that? 18 A Since June of 2019. 19 Q And obviously without revealing any client 20 communications, which I'm not interested in at all, 21 how did it come to pass that you ended up representing 22 General Flynn?</p>	<p style="text-align: right;">Page 24</p> <p>1 A Yes. Sidney was lead counsel in the case. 2 Q Okay. And Molly McCann? 3 A Yes, ma'am. 4 Q And Ms. McCann used to work at Ms. Powell's 5 shop and now works at yours; correct? 6 A Yeah. That's correct. She's an Of Counsel 7 in my shop. 8 Q And what is your opinion of General Flynn? 9 A He's a great American. 10 Q And have you met members of his family? 11 A Yes, I have. 12 Q Who have you met? 13 A I've met a number of members of his family. 14 Over four years, I've met a number of them. So rather 15 than just give you a laundry list, who specifically 16 are you wondering about? 17 Q Well, I would take the laundry list. But 18 have you met Joe Flynn? 19 A Yes. 20 Q Have you met Barbara Flynn Redgate? 21 A Yes. 22 Q Have you met Jack Flynn?</p>
<p style="text-align: right;">Page 23</p> <p>1 A I was engaged to help him regarding the case 2 that was ultimately -- the Department of Justice 3 ultimately moved to dismiss the case against him and 4 where President Trump then pardoned him on -- brought 5 by the special counsel. 6 Q So you were engaged to represent General 7 Flynn in the actual criminal prosecution; correct? 8 A Correct, yes. In the criminal case. 9 Q And you were engaged -- and forgive me if 10 I've got my timing wrong -- after General Flynn took 11 the plea deal; right? 12 A That -- it was after the -- the plea and so 13 we represented him -- yes, after that point. The plea 14 was something that was handled by Covington and 15 Burling. And once he ended the representation of 16 Covington and Burling, that's when we were brought in. 17 Q Okay. And the "we" you're referring to is - 18 - I'm sorry, Mr. Binnall, I'm in between glasses. So 19 I apologize for making weird head bobbing noise at 20 you. 21 Your co-counsel were Sidney Powell; is that 22 right? Your co-counsel was Sidney Powell?</p>	<p style="text-align: right;">Page 25</p> <p>1 A Yes. 2 Q Have you met Leslie Flynn? 3 A Yes, I believe so. 4 Q Have you met Valerie Flynn? It's Joe 5 Flynn's wife among other -- 6 A Yes. Yes. Yes. That's right. I've met 7 Valerie, yes. 8 Q And how about Lori Flynn? 9 A Yes. 10 Q And where have you met the Flynn's? 11 A I've met them at my office. I have met them 12 at other locations. I have met them at political 13 events. I've seen them on a number of occasions over 14 the last four years. 15 Q And you've mentioned at your office. And 16 again, I'm not looking to intrude on attorney client 17 communications, but have you represented any of the 18 individual Flynn family members I just mentioned? 19 A I -- I would say that we have an attorney 20 client relationship with Lori Flynn. And I do not 21 believe, sitting here today, that we have had an 22 attorney client relationship with any of those other</p>

<p style="text-align: right;">Page 26</p> <p>1 individuals, certainly not in their individual 2 capacity. 3 Q What do you mean by that? What do you mean 4 by "certainly not in their capacity"? They are 5 individuals. You represent some Flynn family 6 something? You know, some kind of business or 7 non-profit and you're saying that you don't represent 8 them personally, but you do represent the non-profit? 9 A I'm saying, you know, whether I have -- 10 without doing a full conflict search right now and so, 11 answering your question as truthfully, what I'm trying 12 to -- to think specifically in my head is whether we 13 have an attorney client relationship with any entities 14 on which they may be a client representative. And I 15 don't know that sitting here today whether that would 16 be the case. 17 But I -- as far as my memory right here without 18 thinking of any particular matters, I do not think 19 that other than General Flynn and Lori Flynn, that we 20 have an attorney client relationship with any other 21 Flynn family member. 22 Q Okay. And when did President Trump pardon</p>	<p style="text-align: right;">Page 28</p> <p>1 that money was coming through -- my understanding 2 without guessing, but my understanding is that -- 3 well, actually, you know, what? I'm not going to 4 guess. I'll just say that the checks came from lead 5 counsel in that case. 6 Q Okay. And lead counsel in the case was 7 Sidney Powell? 8 A Yes, ma'am. 9 Q And how much was your law firm paid? 10 A Oh, I don't know, ma'am. I couldn't tell 11 you sitting here today how much the total bills were 12 in that case. 13 Q Can you give me a ballpark figure? Was it 14 more than \$50? 15 A It certainly was more than \$50. There -- 16 there was a lot -- 17 Q Was it more than half -- 18 A I'm sorry? 19 Q Was it more than half a million dollars? 20 A I do not believe so, no. 21 Q Okay. Somewhere between 250 and 500? 22 A Don't know. Don't know as I'm sitting here</p>
<p style="text-align: right;">Page 27</p> <p>1 General Flynn to the best of your memory? 2 A About Thanksgiving of 2020. 3 Q Okay. So you represented him from June of 4 2019 to about Thanksgiving of 2020 in the criminal 5 litigation; correct? 6 A I believe that the judge in that case 7 formerly dismissed the matter after the pardon on 8 about December 8th of 2020. And so, it was at that 9 point that I would say that matter concluded after the 10 -- the order dismissing the case was -- was entered. 11 There may have been some -- and I can almost 12 guarantee that there was probably follow on work that 13 probably needed to be done to wind down that 14 litigation, but that was the effective end day. It 15 was when the -- when the order of dismissal was 16 entered. 17 Q Okay. Were you paid for that work? 18 A Yes, ma'am. 19 Q And were you paid from the legal defense 20 fund that General Flynn established? 21 A I believe so. I think that's -- I was paid 22 primarily through lead counsel, and I believe that</p>	<p style="text-align: right;">Page 29</p> <p>1 today. I'd have to -- I'd have to look at our 2 billing, of course, to tell you how much it was. 3 Q And you billed Ms. Powell directly? 4 A We sent the invoices to her, and she paid 5 them. 6 Q Okay. Are you still in touch with Ms. 7 Powell? 8 A I have not talked to Ms. Powell in over a 9 year. 10 Q Again, without getting into attorney client 11 communications, any particular reason you haven't 12 spoken to Ms. Powell? 13 A No, ma'am. 14 MS. BOLGER: Alexa, would you mind 15 putting up tab 42 for me? 16 MS. PASTOR: Just a -- 17 BY MS. BOLGER: 18 Q Just the next page, please. Just for the 19 record, Exhibit 432 is a printout of a tweet you made. 20 (Exhibit 432 was marked for 21 identification.) 22 I creaped on your tweeting, Mr. Binnall. And</p>

<p style="text-align: right;">Page 30</p> <p>1 you'll see that here's a tweet that -- the initial 2 tweet is from the President saying "What happened to 3 General Michael Glynn, a war hero, should never be 4 allowed to happen to a citizen of the United States 5 again!" 6 And you retweeted it and said -- or I guess your 7 quote tweeted it and said: "The President knows that 8 General Flynn is one of the finest men that you'll 9 ever meet in your life. He always put his country 10 before himself. That he and his family should have 11 been put through this hell is an infuriating disgrace. 12 It should never happen again." Do you see that? 13 A It should never ever happen again, yes. 14 Q Sorry. I forgot the "ever." I apologize. 15 I crepted wrongly on your tweeting, Mr. Binnall. I 16 apologize. 17 A No worries. 18 Q Do you agree with that sentiment? 19 A Yes, I do. 20 Q Why did you include his family in the tweet? 21 A I included his family in that -- in that 22 tweet because what he and his family went through was</p>	<p style="text-align: right;">Page 32</p> <p>1 trying to leverage him against his -- against his 2 family. 3 Q Okay. 4 A Very sorry. 5 Q Your firm also represented General Flynn in 6 a defamation lawsuit against a person named Everett 7 Stern; correct? 8 A That's correct. 9 Q And what was that defamation lawsuit about? 10 A And to be -- to be sure that I am clear on 11 this, my firm represented him in the Flynn vs. Stern 12 case. I, myself, was not counsel of record in that 13 case. But it had to -- it had to do with defamatory 14 statements made by Mr. Stern against General Flynn, 15 accusing him of a number of things. And I don't -- I 16 couldn't tell you based on my memory alone and what 17 the averments were in that complaint. I could 18 certainly refresh my recollection. 19 Q Okay. 20 MS. BOLGER: Alexa, would you mind 21 please putting up tab 49? 22 It's very exciting waiting for the</p>
<p style="text-align: right;">Page 31</p> <p>1 -- was quite incredible. There's specific things in 2 the litigation that involved his family and what the 3 Special Counsel's Office did inappropriately with his 4 family. 5 Q Can you tell me more about that, please? 6 A Sure. The Special Counsel's Office 7 threatened to prosecute his son. And overtly, they -- 8 it was very clear that they -- did that to convince 9 General Flynn to give them a proffer. And within the 10 course of our representation, it came out that the 11 Special Counsel's Office and the -- General Flynn's 12 counsel had a handshake agreement to not prosecute 13 Michael Flynn Jr., if General Flynn would -- would 14 plead guilty to the one count under 18 USC 1001. 15 Handshake deals, things that aren't put out in a 16 plea agreement are absolutely inappropriate. It's 17 something that the Special Counsel's Office knew, 18 Covington and Burling knew. It was something that was 19 -- that was absolutely inappropriate for them to do 20 that. 21 So that's a -- I think, one of the biggest 22 examples of what his family had to endure with them</p>	<p style="text-align: right;">Page 33</p> <p>1 exhibits to load. It's like a, you know, on the edge 2 of your seat kind of thing. 3 BY MS. BOLGER: 4 Q Okay. This is Exhibit 433. It 5 is another printout of a tweet. 6 (Exhibit 433 was marked for 7 identification.) 8 MS. BOLGER: If you can look at the 9 next -- go to the next page, Alexa. 10 BY MS. BOLGER: 11 Q Okay. So here is the -- your tweet was: 12 "Note to the left: the days of being free to impugn 13 General Flynn's good character are over. Today, 14 @GenFlynn settled his defamation lawsuit against 15 Everett Stern for \$150K. From here forward, if you 16 want to defame an American her, have your checkbook 17 ready." 18 And General Flynn quotes you saying: "@jbinnall 19 You're right, those days are over. Thank you and your 20 entire team of warriors willing to wage these 21 necessary legal battles." Do you see that? 22 A Yes.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q Okay. Did you have an agreement with the</p> <p>2 Plaintiff's counsel that you guys were allowed to</p> <p>3 tweet about the dollar amount?</p> <p>4 A There -- actually, there was a specific</p> <p>5 agreement that there would not be a confidentiality</p> <p>6 agreement in that -- in that settlement.</p> <p>7 Q And you don't remember what the alleged</p> <p>8 defamatory claims were?</p> <p>9 A I could refresh my recollection on it. If</p> <p>10 you give me moment, I'd be happy to.</p> <p>11 Q I can do that too. I just wondered if you</p> <p>12 remembered it at the top of your head. Okay.</p> <p>13 MS. BOLGER: Alexa, you can put that</p> <p>14 one down.</p> <p>15 BY MS. BOLGER:</p> <p>16 Q Okay. So you also represent General Flynn</p> <p>17 in his current lawsuit against The United States;</p> <p>18 right?</p> <p>19 A Yes, ma'am.</p> <p>20 Q Are you involved in that personally or is it</p> <p>21 just your colleagues?</p> <p>22 A I am not counsel of record on that case.</p>	<p style="text-align: right;">Page 36</p> <p>1 tab. Can you see what the next page is just to make</p> <p>2 sure I got this right? Yeah. That's right.</p> <p>3 BY MS. BOLGER:</p> <p>4 Q Okay. So for the record, Exhibit 434 is</p> <p>5 another tweet of yours, Mr. Binnall, which says "The</p> <p>6 Binnall Law Group (@BinnallLaw) just filed a \$50</p> <p>7 million lawsuit to hold the government accountable for</p> <p>8 their politically motivated persecution of an American</p> <p>9 hero, @GenFlynn." And then it says, "Read it here."</p> <p>10 And then if you see, you then reply to your tweet</p> <p>11 saying: "What the Deep State did to General Flynn</p> <p>12 should never be done to another American, ever. 'As a</p> <p>13 result of this unjustifiable, outrageous, and</p> <p>14 malicious prosecution of General Flynn and the abuse</p> <p>15 of process engaged in to carry it out by FBI agents,</p> <p>16 FBI leadership," the next tweet, "Justice Department</p> <p>17 prosecutors, and the highest-ranking[] officials in</p> <p>18 the Obama administration, punitive damages are not</p> <p>19 only warranted but essential.' Accountability is</p> <p>20 coming." Correct? And you tweeted that out?</p> <p>21 (Exhibit 434 was marked for</p> <p>22 identification.)</p>
<p style="text-align: right;">Page 35</p> <p>1 And whether or not I will make an appearance in that</p> <p>2 case, pro hac vice has not been determined yet. I</p> <p>3 certainly am aware of that case.</p> <p>4 Q And what's that case about?</p> <p>5 A That case is about the wrongful actions</p> <p>6 taken by the Department of Justice in the Crossfire</p> <p>7 Hurricane and Crossfire Razor investigations against</p> <p>8 General Flynn and continuing on into the Special</p> <p>9 Counsel investigation and the wrongful prosecution of</p> <p>10 him.</p> <p>11 Q You all filed that in Florida; right?</p> <p>12 A Yes, ma'am.</p> <p>13 Q And who's the judge? Do you know?</p> <p>14 A I would -- I would not want to off the top</p> <p>15 of my head try to remember the names. I'm notoriously</p> <p>16 bad at remembering names and even worse at repeating</p> <p>17 them accurately. So I'd want to refresh my</p> <p>18 recollection on that rather than say it from memory.</p> <p>19 Q Okay.</p> <p>20 MS. BOLGER: Alexa, would you mind</p> <p>21 putting up tab 50?</p> <p>22 I may have just given you the wrong</p>	<p style="text-align: right;">Page 37</p> <p>1 A Yeah. And that's -- the -- a bunch of that</p> <p>2 is from the "As a result" until "essential" is a</p> <p>3 partial quote from the lawsuit.</p> <p>4 Q I'm sorry. You're right. I should have put</p> <p>5 the quotes in there. Okay. What is the status of</p> <p>6 that litigation?</p> <p>7 A There was a motion to transfer venue by the</p> <p>8 government. That motion was denied. We are not</p> <p>9 waiting for the government's response to that lawsuit.</p> <p>10 Q Okay.</p> <p>11 MS. BOLGER: And Alexa, you can close</p> <p>12 that one down. And if you wouldn't mind putting up</p> <p>13 tab 51.</p> <p>14 BY MS. BOLGER:</p> <p>15 Q Okay. For the record, tab 51, which is</p> <p>16 Exhibit --</p> <p>17 MS. BOLGER: Can you go -- sorry,</p> <p>18 Alexa. What exhibit number?</p> <p>19 BY MS. BOLGER:</p> <p>20 Q 435 is a tweet from General</p> <p>21 Flynn dated March 3rd. It says: "This is</p> <p>22 a timely, precise and important filing for</p>

<p style="text-align: right;">Page 38</p> <p>1 all Americans. This level of corruption 2 and understanding [sic] of our rule of law 3 cannot stand. On behalf of the entire 4 Flynn family, we thank you @jbinnall law 5 group and team for your exceptional work. 6 #FightLikeAFlynn." Do you see that? 7 (Exhibit 435 was marked for 8 identification.) 9 A Yes, ma'am. 10 Q Okay. Did you know he was going tweet that? 11 A No, ma'am. 12 Q Okay. 13 MS. BOLGER: All right. You can put 14 that one down. 15 BY MS. BOLGER 16 Q Okay. Hold on. You also --- at least were 17 defending Sidney Powell in the Dominion lawsuit 18 against defending the Republic; correct? 19 A Actually, no. That's not correct. I never 20 represented Sidney. I briefly represented defending 21 the Republic as an entity in that case. 22 Q Sorry. I apologize. So what was your</p>	<p style="text-align: right;">Page 40</p> <p>1 decide are important to talk about. I'd probably do 2 that with -- treat that the same as -- as most other 3 news organizations. 4 Q Okay. 5 MS. BOLGER: Alexa, can you put up tab 6 43 for me? 7 BY MS. BOLGER: 8 Q This is Exhibit 436. It is, again, a 9 printout of a tweet. The tweet, which is dated 10 September 28, 2020, reads "Ha! I love it when #Biden 11 is, three flames, by a freshman in college (but 12 obviously not to one to mess with, just ask Fake News 13 CNN and the Amazon Washington Post)." Do you see 14 that? 15 (Exhibit 436 was marked for 16 identification.) 17 A Yes, ma'am. 18 Q Okay. Do you often call other news 19 organizations "Fake News," or just CNN? 20 A Oh, I've -- I'm sure I've referred to other 21 news organizations as "Fake News." Now, I actually 22 don't remember what -- oh, that was in regards to</p>
<p style="text-align: right;">Page 39</p> <p>1 representation of defending the Republic? 2 A I -- briefly entered a notice of appearance 3 in that case. I never actually did any substantive 4 work that I can remember in that case. 5 I was replaced by other counsel in that case that 6 have been litigating it for a couple years now. 7 Q What counsel? 8 A I think Larry Joseph was a lawyer for that 9 case. I don't know if he still is, and I don't know 10 what other lawyers are involved. 11 Q I'm sorry. 12 A No, you're fine. 13 Q You're not the biggest fan of CNN to put it 14 bluntly; correct? 15 A Actually, it -- it depends. It depends 16 when. I think CNN has -- has improved substantially 17 in -- in recent years. I -- I certainly didn't like a 18 number of the coverage that was coming from CNN in -- 19 in past years. But I think there's an effort to -- to 20 correct course at least somewhat in the light. 21 I may very well agree with many of the opinions 22 that come down on some of the issues they -- they</p>	<p style="text-align: right;">Page 41</p> <p>1 Nicholas Sandmann. Yeah. 2 Q Okay. 3 MS. BOLGER: Can we put up tab 44, 4 please? 5 BY MS. BOLGER: 6 Q Okay. This is Exhibit 437, tab 44 in the 7 folder, which is a tweet from Mr. Binnall dated July 8 3, 2021, which is a quote tweet. I think that's the 9 terminology. 10 (Exhibit 437 was marked for 11 identification.) 12 The LivePDDave tweeted out "Vernon Jones 13 absolutely destroys hack CNN Reporter! Laughing crying 14 face". And you say "This is how conservatives need to 15 handle CNN. I'm sold. @RepVernonJones is the real 16 deal." Do you see that? 17 A Yes. 18 Q And you did tweet that out? 19 A Yeah. And I -- you need to actually, I 20 believe, watch the video to -- to understand the 21 context there. But -- and of course, the context is 22 important. But yes, that's -- that's right.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q Why is the context important in this case?</p> <p>2 A You know, I don't remember exactly off the</p> <p>3 top of my head what Vernon Jones did there, but I</p> <p>4 remember it was something along the lines of not</p> <p>5 accepting the premise of a -- of a question that was</p> <p>6 -- that was posed to him where the premise was</p> <p>7 incorrect.</p> <p>8 Q Okay.</p> <p>9 A And so, it was -- he was very succinct in</p> <p>10 that way he -- he -- and I think, effective in the way</p> <p>11 that he handled a particular question, especially</p> <p>12 still in that era of CNN.</p> <p>13 Q Okay.</p> <p>14 MS. BOLGER: You can close that tab</p> <p>15 now. And then if you wouldn't mind putting up tab 48.</p> <p>16 BY MS. BOLGER:</p> <p>17 Q And Exhibit 438 is another tweet of yours</p> <p>18 and it's about Dan Rather tweets something about:</p> <p>19 "Good for the @washingtonpost and @farhip for being</p> <p>20 direct about where this vile hatred can be found, and</p> <p>21 who was spewing it. More of this candor by the press,</p> <p>22 please." And then it has a link to the Washington</p>	<p style="text-align: right;">Page 44</p> <p>1 Harvey and Binnall; is that right?</p> <p>2 A Yes, ma'am.</p> <p>3 Q Okay. What was Harvey and Binnall?</p> <p>4 A It was a law firm.</p> <p>5 Q Who was the Harvey?</p> <p>6 A Phillip Harvey.</p> <p>7 Q Are you still -- is he still a partner of</p> <p>8 yours?</p> <p>9 A He is not a partner of mine. He is still a</p> <p>10 good friend and a co-tenant of mine.</p> <p>11 Q And when did you guys split up for lack of a</p> <p>12 better term?</p> <p>13 A The firm split in March 1st of 2021.</p> <p>14 Q Okay.</p> <p>15 MS. BOLGER: I'm going to ask Alexa to</p> <p>16 put up tab 47.</p> <p>17 BY MS. BOLGER:</p> <p>18 Q Tab 47, which is Exhibit 439 is a tweet,</p> <p>19 also by Mr. Binnall, which is dated March 26, 2022,</p> <p>20 which says: "Our firm is growing! If you are or you</p> <p>21 know an America First paralegal with experience in</p> <p>22 litigation, willing to work in the DC area, please</p>
<p style="text-align: right;">Page 43</p> <p>1 Post article. To which you responded "It makes</p> <p>2 since," but I think you meant, sense --</p> <p>3 A Yeah.</p> <p>4 Q -- "that a guy whose open bias led to him</p> <p>5 being fired for disseminating fake news would praise</p> <p>6 biased fake news. @DanRather you are - and always will</p> <p>7 be - a consistent liberal hack. You were never a</p> <p>8 'news man.'" Do you see that?</p> <p>9 (Exhibit 438 was marked for</p> <p>10 identification.)</p> <p>11 A Yes, ma'am.</p> <p>12 Q Do you remember tweeting that out?</p> <p>13 A Vaguely, yes. I am not a fan of -- of Dan</p> <p>14 Rather in my personal politics. So yes, I remember,</p> <p>15 vaguely, doing that.</p> <p>16 Q Okay.</p> <p>17 MS. BOLGER: You can take that down.</p> <p>18 BY MS. BOLGER:</p> <p>19 Q So you are currently a -- I guess, would you</p> <p>20 describe yourself as the founder of Binnall Law Group?</p> <p>21 A Yes, ma'am.</p> <p>22 Q Okay. And you were formerly affiliated with</p>	<p style="text-align: right;">Page 45</p> <p>1 send me a DM. Come work with the best MAGA lawyers in</p> <p>2 the business! @BinnallLaw."</p> <p>3 (Exhibit 439 was marked for</p> <p>4 identification.)</p> <p>5 What is an America First paralegal?</p> <p>6 A I think specifically I was talking there</p> <p>7 about a paralegal who believes in the America First</p> <p>8 agenda.</p> <p>9 Q What is the America First agenda?</p> <p>10 A Oh, I mean, it's -- there's a number of</p> <p>11 aspects to the America First agenda, but it I think</p> <p>12 boils down to putting America first.</p> <p>13 Q Would you agree with my assertion that it is</p> <p>14 an agenda that is sort of created and propagated by</p> <p>15 President Trump?</p> <p>16 A I don't know that you would say that it was</p> <p>17 created by President Trump, but I would -- I would</p> <p>18 certainly say that -- that he is the leader in the</p> <p>19 America First movement now.</p> <p>20 Q Do you consider the Flynn family to be part</p> <p>21 of the America First movement?</p> <p>22 A You'd have to ask them, but I would -- yeah.</p>

<p style="text-align: right;">Page 46</p> <p>1 I suspect --</p> <p>2 Q Well, I can't ask them what you would think.</p> <p>3 I'm just asking what you would think --</p> <p>4 A I would suspect the answer to be, yes.</p> <p>5 MS. BOLGER: Okay. You can take that</p> <p>6 down, Alexa.</p> <p>7 BY MS. BOLGER:</p> <p>8 Q Why only an America First paralegal? It's a</p> <p>9 real specific request.</p> <p>10 A Yeah. Well, I mean, that was during a</p> <p>11 period when law firms were specifically refusing to</p> <p>12 hire people associated with the America First movement</p> <p>13 for bigger law firms. That provided us an excellent</p> <p>14 opportunity to take advantage of the fact that big</p> <p>15 firms were effectively discriminating against people</p> <p>16 on -- on that basis. And so, we -- we could and quite</p> <p>17 frankly we did hire some really great people as result</p> <p>18 of that.</p> <p>19 Q What was in 2022 that tweet. What big firm</p> <p>20 --</p> <p>21 A '22 or 2021.</p> <p>22 Q I believe it was --</p>	<p style="text-align: right;">Page 48</p> <p>1 is that being in Washington, D.C., especially when it</p> <p>2 comes to staff, we have to be careful about who we</p> <p>3 hire. And while we do hire, you know, people of</p> <p>4 various political beliefs, we have to be very careful</p> <p>5 that we don't have leaks. And so, that's another</p> <p>6 thing that we take into consideration for our hiring</p> <p>7 decisions.</p> <p>8 Q You think people who aren't consistent with</p> <p>9 your political agenda would more likely leak?</p> <p>10 A Yes, ma'am.</p> <p>11 Q Because they're not America First, you're a</p> <p>12 big liar and a cheat?</p> <p>13 A No, ma'am. I didn't say that.</p> <p>14 Q Why is it that you think they're more likely</p> <p>15 to leak then?</p> <p>16 A Because Washington, D.C. is very politically</p> <p>17 polarized. We represent people that -- that polarize</p> <p>18 people and emotions run high. And that is something</p> <p>19 that I would be foolish if I was not concerned about.</p> <p>20 And I wouldn't -- I would not be doing my clients a</p> <p>21 fair service. Because of course, when it comes to</p> <p>22 paralegals, they're not licensed professionals. You</p>
<p style="text-align: right;">Page 47</p> <p>1 A Can you put it back up just to verify?</p> <p>2 Q Yup.</p> <p>3 MS. BOLGER: Put it back up.</p> <p>4 BY MS. BOLGER:</p> <p>5 Q Yeah. It was March 2022.</p> <p>6 A Okay.</p> <p>7 Q So I'm wondering what law firm --</p> <p>8 A Yeah, so, still -- still the same. That was</p> <p>9 -- that was still an era on, like I said, where, I</p> <p>10 mean, I think that's continuing today, I think, as</p> <p>11 well after the new congress came into session and</p> <p>12 firms realized, I think, that they had a lack of</p> <p>13 people with connections to the new majority and the</p> <p>14 House of Representatives, that may have changed</p> <p>15 somewhat.</p> <p>16 But at that point, nothing can change and big law</p> <p>17 had still refused to hire -- was still refusing to</p> <p>18 hire people on the basis of politics. And certainly,</p> <p>19 they were refusing -- still refuse today to accept</p> <p>20 clients associated with the -- with the American First</p> <p>21 movement.</p> <p>22 The other aspect that -- that I'm not shy about</p>	<p style="text-align: right;">Page 49</p> <p>1 can't pull their license like you could if an attorney</p> <p>2 were to go out and leak. So yeah. That is -- that is</p> <p>3 a concern that I have, and I think that would not be a</p> <p>4 unique concern.</p> <p>5 Q I printed out some of your Federal Court</p> <p>6 cases. And it appears not to be not to -- point out</p> <p>7 that you often represent former President Trump;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. I'm just going to ask you about a</p> <p>11 couple of the litigations. What was the -- well, the</p> <p>12 Donald Trump vs. Hillary Clinton, what was that one?</p> <p>13 A We were -- that is an appeal case that we</p> <p>14 represent President Trump and his attorneys on that</p> <p>15 have to do with sanctions. That would be another</p> <p>16 example of litigating attorneys' fees, where we came</p> <p>17 in after sanctions -- or after the case was dismissed</p> <p>18 to litigate the case on appeal.</p> <p>19 Q Okay. Was someone sanctioned in that case?</p> <p>20 A Yes, ma'am.</p> <p>21 Q Who was sanctioned?</p> <p>22 A President Trump and his attorneys.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q And was that -- his attorney, Alina Hobba in 2 that one?</p> <p>3 A She -- she is one of the -- one of the 4 appellants in that case, yes.</p> <p>5 Q Okay. What was the Conrad Smith vs. Donald 6 Trump litigation?</p> <p>7 A That was ongoing litigation in the United 8 States District Court for the District of Columbia 9 where you have a number of plaintiffs who are suing 10 President Trump and -- and other defendants. And the 11 issue that -- that issue is also before the D.C. 12 Circuit Court of Appeals right now on a constitutional 13 issue. Specifically the issue of presidential 14 immunity.</p> <p>15 Q Okay. Is that related to January 6?</p> <p>16 A Yes, ma'am.</p> <p>17 Q And then you represented, I think, President 18 Trump is Garza vs. Trump?</p> <p>19 A Yes.</p> <p>20 Q What was that one?</p> <p>21 A The Garza vs. Trump matter is -- has to do 22 with a -- it's another case that is similar to the</p>	<p style="text-align: right;">Page 52</p> <p>1 A Understand.</p> <p>2 Q Anyway, that was purely a lawyerly question. 3 Michigan Welfare Rights Organization vs. Trump, what's 4 that one?</p> <p>5 A That is a case that was filed, I believe in 6 November of 2020 against President Trump. That is 7 pending -- well, actually, that one is also on appeal 8 for absolute immunity issues as well.</p> <p>9 Q That one also related to January 6th?</p> <p>10 A Actually, no. That one's not related to 11 January 6. It is related to the 2020 election, but 12 not specifically January 6th. It was filed well 13 before January 6th.</p> <p>14 They did file another amended complaint in that 15 case, I believe, a second amended complaint. And 16 whether that second amended complaint mentions January 17 6th is not something I could tell you off of memory, 18 because the primary issue that we are litigating in 19 that case is presidential immunity. And so, I 20 couldn't tell you off the top of my head if in the 21 most recent iteration of that complaint it discusses 22 January 6th.</p>
<p style="text-align: right;">Page 51</p> <p>1 Smith litigation and is also going to litigate the 2 issue of presidential immunity.</p> <p>3 Q You also represent, I assume, Alina Hobba, 4 in the Charles Dolan litigation. And I realize that 5 that's not President Trump, but is that Dolan as in 6 the guy who owns the New York Knicks, do you know?</p> <p>7 A So I believe you're actually talking about 8 the case that we already discussed, the Trump vs. 9 Clinton case.</p> <p>10 Q I have a separate listing for Hobba vs. 11 Dolan. It doesn't matter that much. I'm interested 12 in --</p> <p>13 A I'm not -- I'm not -- I'm not aware of a 14 case styled as Hobba vs. Dolan. And the only -- the 15 only case that's coming to mind that I represent Ms. 16 Hobba in is the -- is the Clinton -- Trump vs. Clinton 17 case.</p> <p>18 Q As you may know, or may not know, Mr. 19 Binnall, Charles Dolan keeps kicking people out of 20 Madison Square Garden who he doesn't like based on 21 facial recognition technology, and I wondered if that 22 was that case.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q Okay. There seems to be two affiliated 2 cases, Marcus Moore and Bobby Tabron. but I think they 3 may all be the same cases about the 2020 election; is 4 that right?</p> <p>5 A Those are actually January 6th related cases 6 that are currently being held in advance in the D.C. 7 Circuit, while the D.C. Circuit considers the 8 Blassingame case, which is consolidated with a couple 9 other cases on that presidential immunity issue.</p> <p>10 Q And what is the allegation of the 11 Blassingame case?</p> <p>12 A You know, the allegations speak for 13 themselves. But I'd say the -- the overall issue is 14 the President of the United States absolute immune 15 from a civil lawsuit based on a speech of public 16 importance?</p> <p>17 Q Okay. And you take a position that he is?</p> <p>18 A Yes, ma'am.</p> <p>19 Q Okay. What was the Bennie Thompson 20 litigation? Benni Thompson vs. Donald Trump?</p> <p>21 A Okay. So Thompson vs. Trump is one of the 22 cases that is consolidated with Blassingame, and it's</p>

<p style="text-align: right;">Page 54</p> <p>1 actually no longer Thompson because once -- once 2 Bennie Thompson was appointed Chairman of the January 3 6th Committee, he dismissed his claims with prejudice 4 in that case, so the caption is now something 5 different. I don't remember who the second plaintiff 6 on that was, but I couldn't tell you who it is. But 7 regardless, that again, is January 6th related. 8 Q That's related to getting to access to Trump 9 -- President Trump's documents; correct? 10 A No, ma'am. That is -- that is a different 11 case. That's why I made very clear to make the 12 distinction between Thompson vs. Trump as opposed to 13 Trump vs. Thompson. 14 Q Okay. And Trump vs. Thompson is the one 15 that was related to blocking the disclosure of 16 President Trump's documents; right? 17 A Yeah. That was an executive privilege 18 lawsuit and had to do with executive privilege and the 19 Presidential Records Act. 20 Q Are either of the Thompson litigations 21 concluded? 22 A The -- the Trump vs. Thompson case regarding</p>	<p style="text-align: right;">Page 56</p> <p>1 issue of presidential immunity. 2 Q What is representative Swalwell and others 3 accused Trump of doing? 4 A I think he's a lone plaintiff in that, but 5 it's also -- you know, the issue before the court is 6 the same as whether a speech of public importance is 7 entitled to -- by the President of the United States 8 is entitled to absolute immunity. 9 Q Okay. And what about -- I'm almost done -- 10 Kirkland vs. Trump? 11 A Kirkland vs. Trump, I believe, is one of the 12 other cases that is currently being held in advance 13 until the Blassingame decision comes down. 14 Q And what's the allegation? 15 A Same allegation. 16 Q So the -- 17 A All those are -- are the same issue, and -- 18 which is, I mean, effectively, there -- there might be 19 some factual distinctions that the D.C. Circuit may 20 have to consider depending on which way that it goes, 21 but I wouldn't want to guess as at what that might be 22 right now. They're -- these are all -- all cases that</p>
<p style="text-align: right;">Page 55</p> <p>1 the executive privilege and the Presidential Records 2 act is concluded. 3 Q Okay. And what was the conclusion? 4 A The Supreme Court of the United States 5 denied our application for emergency relief and 6 subsequently denied suit. 7 Q And so the documents were turned over; 8 right? 9 I'm sorry. I didn't hear you. Can you answer 10 again? 11 A Correct. 12 Q Okay. Sorry. For some reason, Mr. Binnall, 13 sometimes there's a delay in your answer, so I 14 apologize. 15 And the Bennie Thompson vs. Trump matter is still 16 going on; correct? With a different name. 17 A Without Bennie Thompson, yes. 18 Q Okay. What is the Erik Swalwell vs. Donald 19 Trump matter? 20 A That's another case that has been 21 consolidated with the Blassingame case and is 22 currently under submission at the D.C. Circuit on that</p>	<p style="text-align: right;">Page 57</p> <p>1 have to do with whether a speech of public importance 2 by the President of the United State is entitled to 3 absolute immunity. 4 Q Okay. The docket reads defendants -- that 5 the allegation is "Defendant's wrongful conduct 6 inciting a riot by his followers in attempt to 7 overturn the results of the 2020 presidential 8 election." That's how the court characterizes the 9 allegations. Does that seem a correct way to 10 characterize the allegations? I understand you 11 disagree with them. 12 A I wouldn't want to characterize the 13 allegations. I think they speak for themselves. So 14 if that's the way that the docket reads, I'll take 15 your word for it. 16 Q Okay. And you were involved in litigations 17 on behalf of the Trump campaign in Nevada; correct? 18 A Yes, ma'am. 19 Q And what were those litigations about? 20 A I was involved in a number of allegation -- 21 a number of litigations in Nevada. One had to do with 22 access to poll watchers, and that was brought before</p>

<p style="text-align: right;">Page 58</p> <p>1 the election to try to ensure that there would be the 2 ability of poll watchers to -- to actually see ballots 3 through the entire process to try to avoid a situation 4 where the results couldn't be relied on. 5 And another case was post-election. And we 6 brought forward a number of allegations of misconduct 7 including -- including the bribing of individuals on 8 Native American reservations to vote and brought that 9 up in addition to other issues. 10 We also litigated during that case leaving the 11 polls open a little bit later because the machines in 12 certain precincts on election day did not work for 13 hours when the polls were opened. And we were 14 successful on getting the polls open for some amount 15 of time after they were supposed to -- they were 16 supposed to close. 17 I believe there may have been one or two other 18 cases I was involved in. I was in Nevada for about an 19 eight week period. 20 Q How did it come to be that you were in 21 Nevada? Were you sort of designated as the Trump 22 campaign guy in Nevada? I'm sure there's a more</p>	<p style="text-align: right;">Page 60</p> <p>1 November 2020 through December 2022. 2 A If -- if that's -- I mean, I -- I couldn't 3 sit here right now and tell you the exact dollar 4 amount. If that's what the numbers show and it's 5 correctly added, I have no reason to -- to disagree 6 with that, subject to me, of course, adding up the 7 totals myself. 8 Q Okay. Well, Mr. Binnall, I did go to law 9 school, so who knows if I know my math, but I did 10 genuinely try. 11 A Yeah. 12 Q Okay. Who were your local counsel in that 13 case? 14 A In what case? 15 Q Sorry. In Nevada. 16 A Local counsel was Shana Weir. 17 Q You also testified in congress about 18 election irregularities, to put it mildly; correctly? 19 A Yes, ma'am. I did. 20 Q I took a look at the -- at your testimony. 21 I just have a question for you which is that you say, 22 and the thing you say "Our team began chasing down</p>
<p style="text-align: right;">Page 59</p> <p>1 formal way of saying that, but was that your role? 2 A Yeah. No, I mean, that's -- that's right. 3 I was -- I was engaged by the -- by the Trump 4 campaign. Nevada was, of course, a swing state, and 5 so I was engaged by the Trump campaign as outside 6 counsel. 7 Q How did you come to be engaged by the Trump 8 campaign? Was it before or after you were retained by 9 General Flynn? 10 A So I was engaged by the Trump campaign in 11 2016 for the first time. And so, that was on 12 parliamentary procedure matters primarily. But I was 13 engaged going back to 2016. And then I was engaged 14 for the 2020 campaign October of 2020, so that was 15 sometimes after I had been working for General Flynn. 16 Q And I looked it up on the Federal Election 17 Committee. You got paid about 2.2 million dollars for 18 representing the President in litigation related 19 lawsuits; right? 20 A During what period? Over -- 21 Q I guess from 20 -- shame on me for not -- I 22 was just trying to cut down on time -- basically from</p>	<p style="text-align: right;">Page 61</p> <p>1 every lead and here's what we found." I can put it up 2 on the screen, but my question is going to be who was 3 your team? Was that your -- in your law firm or 4 another team that you had assembled? 5 A That was the Nevada Election Day operations 6 team. And there was a number of volunteers that were 7 on that team. There was -- there was some staff, 8 local counsel, other counsel that had volunteered or 9 otherwise engaged. And so, there were -- there were a 10 number of people. You know, most of them just hard 11 working Americans who believe in what they were doing, 12 but they came out and volunteered their time. 13 Q Okay. Was Mr. Biss involved in any of that? 14 A I do not believe he was involved in Nevada 15 at all. 16 Q Okay. Do you think he was involved 17 somewhere else? 18 A I wouldn't know. 19 Q Okay. All right. Can we just take five 20 minutes while I just run to the bathroom and check on 21 my -- my son's cut? He injured his foot this morning. 22 And I'll be right back. Give me five minutes, I'll be</p>

<p style="text-align: right;">Page 62</p> <p>1 right back.</p> <p>2 A Thank you.</p> <p>3 THE VIDEOGRAPHER: Okay. Going off the</p> <p>4 record at 11:05.</p> <p>5 (Off the record.)</p> <p>6 THE VIDEOGRAPHER: We are back on the</p> <p>7 record at 11:12.</p> <p>8 BY MS. BOLGER:</p> <p>9 Q Mr. Binnall, when did you first meet Mr.</p> <p>10 Biss?</p> <p>11 A First time I remember talking to him on the</p> <p>12 phone is September of last year, but that might not be</p> <p>13 right. It's very possible that our -- paths crossed</p> <p>14 before that. But that's from my recollection now, was</p> <p>15 actually, I think, August of last year.</p> <p>16 Q And what do you recall about that first</p> <p>17 conversation?</p> <p>18 A It was an unrelated matter. We had a</p> <p>19 privileged conversation.</p> <p>20 Q Sorry, you were co-counsel of some kind?</p> <p>21 A No, ma'am. It was -- it was a discussion</p> <p>22 that was -- that was privileged. We were -- we never</p>	<p style="text-align: right;">Page 64</p> <p>1 aware of the work that he had done, and I had read a</p> <p>2 number of his cases. He's handled these cases like</p> <p>3 these all over the country. And where it's -- it's</p> <p>4 reputational harm cases. Most times, of course, is</p> <p>5 defamation, but false light is another way that you</p> <p>6 can bring those cases. Other states have other torts.</p> <p>7 Q When you reached that conclusion, were you</p> <p>8 aware that on November 26, 2008, the Circuit Court of</p> <p>9 the County of Chesterfield had suspended Mr. Biss's</p> <p>10 law license for one year and one day?</p> <p>11 A Yes, ma'am.</p> <p>12 Q That didn't change your expert opinion of</p> <p>13 his?</p> <p>14 A No, ma'am. He's -- he's -- since that time,</p> <p>15 he has continued to practice law and has practiced all</p> <p>16 over the country with good results. And so, no. That</p> <p>17 didn't -- that didn't affect my -- my analysis --</p> <p>18 negatively affect my analysis on that.</p> <p>19 Q Were you aware that on November 3, 2019</p> <p>20 [sic], the disciplinary board of the Virginia State</p> <p>21 Bar Disciplinary Board extended a sanction -- I just</p> <p>22 want to make sure I say it correctly -- suspending</p>
<p style="text-align: right;">Page 63</p> <p>1 entered our appearances as co-counsel and never -- but</p> <p>2 it was -- it was a privileged -- privileged</p> <p>3 conversation.</p> <p>4 Q Okay. And how many conversations have you</p> <p>5 had with Mr. Biss since then?</p> <p>6 A A handful. I would venture to say less than</p> <p>7 ten.</p> <p>8 Q Have you guys met in person?</p> <p>9 A I don't think so.</p> <p>10 Q When I went to the University of Virginia,</p> <p>11 there was a big difference between Alexandria and</p> <p>12 Charlottesville. Not necessarily geographically, but</p> <p>13 in spheres, those were different places. So you've</p> <p>14 never been Mr. Biss's co-counsel in anything?</p> <p>15 A No, ma'am.</p> <p>16 Q In your expert report, you say "There are a</p> <p>17 few attorneys in the country with the skills requisite</p> <p>18 to properly perform the legal services in a high</p> <p>19 profile false light case, such as this. Mr. Biss is</p> <p>20 one of those lawyers."</p> <p>21 What was your basis for saying that?</p> <p>22 A Mr. Biss is well known. And I certainly was</p>	<p style="text-align: right;">Page 65</p> <p>1 Mr. Biss's license for 30 days to commence at the end</p> <p>2 of his, then, one year suspension?</p> <p>3 A I'm sorry. The date was --</p> <p>4 Q I'll do it again, 2009 is what I meant. I</p> <p>5 apologize, so 2009.</p> <p>6 A The 2009, I was aware of.</p> <p>7 Q Okay. Were you aware in 2010 the Virginia</p> <p>8 State Bar Disciplinary Board --</p> <p>9 MR. BISS: I heard 2019.</p> <p>10 BY MS. BOLGER:</p> <p>11 Q Right. And then I correct --</p> <p>12 A I heard 2019 originally as well.</p> <p>13 Q Yes. And then I meant to correct it to</p> <p>14 2009. It was certainly not intentional.</p> <p>15 Okay. Did you know that the Virginia State Bar</p> <p>16 Disciplinary Board on October 19, 2010, had said that</p> <p>17 Stevens Biss need to receive a public reprimand for</p> <p>18 his misconduct?</p> <p>19 A That was in -- in 2010?</p> <p>20 Q Yes, sir.</p> <p>21 A You know, I don't remember if I knew about</p> <p>22 that one or not. I did know that there was a couple</p>

<p style="text-align: right;">Page 66</p> <p>1 back in that time frame. I don't remember if I knew 2 about that one or not.</p> <p>3 Regardless, it -- whether there was past 4 reprimand, and he still is, you know, now, as far as I 5 know, properly licensed to practice law properly, 6 entitled to receive a fee for doing so. And one of 7 the -- one of the few people that -- that does this 8 and does this effectively. So it does not -- it does 9 not affect my analysis that I laid out in my report.</p> <p>10 Q Okay. Did you know that on March 9, 2022, 11 the Seventh District Subcommittee of the Virginia 12 State Bar, again, agreed -- ordered a public reprimand 13 of Mr. Biss?</p> <p>14 A I don't think I -- I knew about that one. 15 That one I don't think I did see. And you'd have to 16 tell me a little bit more about that if -- if -- to 17 ask me whether it would affect my -- my analysis.</p> <p>18 Q Okay. It is a -- actually, you know, what? 19 MS. BOLGER: This is tab 26. Can you, 20 Alexa and Matt, would you mind putting it up and 21 turning to the third page? 22 MS. PASTOR: Just a moment.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q So if -- if the issue is whether somebody -- 2 the Virginia Bar has opined on this recently about 3 when you can take money out of a trust account, based 4 on when its earned. And that is a different issue 5 about whether or not you have to put benchmarks in a 6 engagement agreement, which you do not. It just has 7 to deal with when you -- can take money out of a trust 8 agreement.</p> <p>9 And that's actually something that there's been 10 quite a bit of debate about in the Bar in Virginia. 11 You know, and lawyers that are well versed and the 12 ethical issues come down on different sides of that 13 issue.</p> <p>14 So if that in fact is the issue at stake in this, 15 it would not change my -- my analysis at all. And 16 certainly, it wouldn't affect whether Mr. Biss was -- 17 was qualified to handle a reputational harm case such 18 as this one.</p> <p>19 Q For the record, that actually was not the 20 issue. If you turn to the fourth page, you'll see 21 that the Nature of Misconduct charged -- scroll down - 22 - is that it was "A lawyer shall act with reasonable</p>
<p style="text-align: right;">Page 67</p> <p>1 BY MS. BOLGER: 2 Q The third stipulation of fact, which I think 3 is relevant here is: "On July 17, 2019, Garrison and 4 Respondent," who is Mr. Biss, "signed an engagement 5 agreement. The agreement stated that Respondent would 6 charge a flat fee of \$10,000, plus a contingency fee 7 of twenty thousand [sic] of any settlement or verdict. 8 The agreement did not identify an hourly rate, nor did 9 it identify any benchmarks at which Respondent would 10 earn all or part of the flat fee." Do you see that? 11 (Exhibit 440 was marked for 12 identification.) 13 A Yes. 14 Q That's similar to the fee arrangement here; 15 right? 16 A I believe it is, yes. 17 Q The fee arrangement here is \$20,000 flat fee 18 plus 20 percent -- 19 A The -- the issue at stake is a little bit 20 different, ethically and legally speaking. And I can 21 explain more if you would like. 22 Q Sure.</p>	<p style="text-align: right;">Page 69</p> <p>1 diligence and promptness in representing a client," 2 and a conclusion that Mr. Biss had not done so. 3 Does that change your opinion? 4 A No. No. That doesn't change my opinion. 5 And, again, I'm only being shown -- parts of this 6 right now. I'll tell you that it doesn't change my -- 7 my opinion because even if there is an agreement in 8 this part, Mr. Biss is still licensed to practice law. 9 So properly practicing the law and handles these 10 reputational harm cases on a -- on a regular basis and 11 is -- he's very qualified to do that.</p> <p>12 Q Okay. So then -- 13 MS. BOLGER: You can close that down. 14 BY MS. BOLGER: 15 Q Do you know who Svetlana Lokhova is? 16 A Yes. 17 Q And who is Ms. Lokhova? 18 A Ms. Lokhova is a individual who I believe at 19 one point, I don't know if she still is a Russian 20 national, but she has -- she was -- her name was 21 sullied in the Mueller investigation and the Crossfire 22 Razor investigation when it was falsely alleged that</p>

<p style="text-align: right;">Page 70</p> <p>1 she had an inappropriate relationship with General 2 Flynn.</p> <p>3 MS. BOLGER: Alexa, I'm sorry, but can 4 you put up tab 28 and we're going to look at page 267.</p> <p>5 And I should mark this as an exhibit, 6 so Exhibit 441 is the decision in Lokhova vs. Halper, 7 in the United States District Court for the Eastern 8 District of Virginia.</p> <p>9 (Exhibit 441 was marked for 10 identification.)</p> <p>11 Can you turn to page 267? Okay. And 12 can you make that -- so the paragraph that I'm going 13 to focus on begins "The record is clear," if you can 14 just scroll down a little.</p> <p>15 BY MS. BOLGER:</p> <p>16 Q So it says: "The record is clear that Biss 17 filed an excessively long complaint and amended 18 complaint on Lokhova's behalf directing unprofessional 19 ad hominem attacks at Halper and others. For example, 20 the complaint calls Halper a," assuming we can -- this 21 says, "a ratfucker and refers to the media defendant 22 as 'stooges.' Such language adds nothing but</p>	<p style="text-align: right;">Page 72</p> <p>1 Q What is the basis of your understanding of 2 defamation law in the United Kingdom?</p> <p>3 A I've advised clients in regards to that and 4 I have otherwise have knowledge from friends and 5 colleagues about defamation law and the Defamation Act 6 in the United Kingdom. And it's -- the law on that 7 issue is -- is not as clear as that judge who I know 8 and respect, says and I would just very respectfully 9 disagree with her.</p> <p>10 Q Which judge was it?</p> <p>11 A I believe it was Judge Brinkema.</p> <p>12 Q Oh, this judge. I'm sorry. I thought you 13 meant the English judge. Yes, this was Judge 14 Brinkema.</p> <p>15 A No, no, no. I mean, it's -- I have no doubt 16 that she accurately described that the case in the UK 17 -- not that I don't -- I don't know for sure what the 18 status of the UK litigation was. But to say that -- 19 that the UK, that the Defamation Act is -- is quite as 20 clear cut, is that is -- it's never simplification of 21 the law there.</p> <p>22 Q Okay.</p>
<p style="text-align: right;">Page 71</p> <p>1 unnecessary heat to this litigation. Moreover, the 2 complaint exaggerates the nature and the content of 3 the allegedly defamatory statements. In addition, 4 Biss and Lokhova have to have known that most of her 5 claims were time-barred, as she had previously 6 filed an unrelated defamation in the United Kingdom, 7 which was dismissed as untimely under the one-year 8 statute of limitations applicable in that 9 jurisdiction." Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Did you know about that?</p> <p>12 A Yes.</p> <p>13 Q Okay. And it did not change your opinion 14 here?</p> <p>15 A No, it doesn't. And part of that is because 16 that case raised a rather interesting -- some rather 17 interesting issues in defamation law that are open 18 questions about republication that I think are 19 important.</p> <p>20 And quite frankly, because of my knowledge of 21 defamation law in the United Kingdom, quite frankly, I 22 think the judge's conclusion there was wrong.</p>	<p style="text-align: right;">Page 73</p> <p>1 MS. BOLGER: You can put that one down 2 if you don't mind. And if you'll put up tab 31.</p> <p>3 BY MS. BOLGER:</p> <p>4 Q This is Exhibit 442. It is the decision in 5 the Anderson vs. School Board of Gloucester County 6 litigation in the Eastern District of Virginia, dated 7 August 2020.</p> <p>8 (Exhibit 442 was marked for 9 identification.)</p> <p>10 MS. BOLGER: And if you will please 11 turn to the fifth page of the exhibit. Scroll down 12 just a smidge more. Thanks. You'll see -- just a 13 smidge more.</p> <p>14 BY MS. BOLGER:</p> <p>15 Q Okay. You'll see that the final paragraph 16 on the page reads: "Counsel for Plaintiffs," that's 17 Mr. Biss, "objections contrary to settled law are 18 particularly troubling given this Court's previous 19 admonishment, in its May 29, 2020 memorandum opinion, 20 that Mr. Biss 'ensure that all positions, including 21 those in briefing and in support of discovery, 'are 22 warranted by existing law or by a nonfrivolous</p>


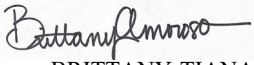
<p style="text-align: right;">Page 74</p> <p>1 argument for extending, modifying, or reversing 2 existing law or for establishing new law'.[f]ailure to 3 do so would result in sanctions.'" Do you see that? 4 A Yes, ma'am. 5 Q Are you aware of that one? 6 A No. I'm not. I'm not aware of that 7 particular case. 8 Q Does it change your opinion here? 9 A That paragraph? No, it does not change my 10 opinion. 11 Q Why not? 12 A I mean, most -- most importantly, there's -- 13 there's no actual findings in that paragraph, one way 14 or another. 15 And second of all, just because a judge used -- 16 might use sharp language in -- in writing an -- an 17 opinion on something, doesn't tell me what the actual 18 allegations and issues particularly may be. 19 And most importantly, it does not tell me 20 regarding the factors that have to be considered, that 21 whether this is a -- how that would affect this 22 specific case, and the reasonableness of rates -- for</p>	<p style="text-align: right;">Page 76</p> <p>1 reasonable multiplication of proceedings by doing 2 things like, advancing positions that are unwarranted, 3 run up the bill and make the charges unreasonable? 4 A Not necessarily. I mean, it could. There's 5 certainly cases where that -- that does happen. But 6 that doesn't necessarily mean that that's what 7 happened in that case. 8 Q I'm not asking about in that case. I'm 9 asking generally. 10 A Generally, it's -- it would be improper for 11 me to guess as to whether such allegations would make 12 litigation -- make the -- the bills higher if billed 13 hourly. There's no way to know with just somebody 14 citing the text Rule 11, whether that's indeed the 15 case. 16 And in fact -- in fact, if that was the case, I 17 wouldn't expect a Rule 11 citation. I'd expect a 18 Section 1927 citation. 19 Q So of course you're here as an expert today. 20 So you're not here as Jesse Binnall. You're here as 21 an expert on reasonable attorneys' fees and you just 22 said you didn't want to guess.</p>
<p style="text-align: right;">Page 75</p> <p>1 instance, in the particular market at stake and how an 2 attorney is expected to -- to make a living. 3 Q Isn't it the case though that making 4 frivolous arguments for extending, modifying, or 5 reversing existing law would mean that you -- the 6 lawyer charged hourly rates for something that was -- 7 according to this judge's opinion, inappropriate? 8 MR. BISS: Object to the form. 9 THE WITNESS: I don't -- I don't see 10 that in that particular paragraph. If you could point 11 me to the exact language that would suggest that I'll 12 look at it. But I don't -- I don't see that in there. 13 BY MS. BOLGER: 14 Q Oh, I didn't suggest that it was there. I'm 15 asking a question. I'm saying this says, essentially, 16 that you shouldn't go ahead and file -- that Mr. Biss 17 was supposed to ensure that all positions, including 18 those in briefing and in support of discovery are 19 warranted; right? That's what it says? My question 20 to you is -- 21 A Okay. 22 Q My question to you is wouldn't the</p>	<p style="text-align: right;">Page 77</p> <p>1 I'm not asking you to guess. I'm asking you a 2 hypothetical. 3 A Yes. 4 Q And you have to answer those as an expert; 5 right? 6 A That's right. 7 Q Hypothetically, isn't it the case that if a 8 attorney takes positions, including those in briefing 9 in support of discovery that are unwarranted by 10 existing law or by nonfrivolous argument for 11 extending, modifying, or reversing existing law, that 12 those actions would necessarily be multiplicative of a 13 bill for no warranted reason? 14 A No, that's not correct. 15 Q Why not? 16 A Because you said "would necessarily." Could 17 they be? Perhaps. It would -- it would determine on 18 a number of -- of other factors. But would it 19 necessarily result in that? No, not necessarily. 20 Q Well, if you were going to opine on whether 21 someone's attorneys' fees were reasonable, wouldn't 22 you like to know if they took positions including</p>

<p style="text-align: right;">Page 78</p> <p>1 those in briefing in support of discovery that were 2 unwarranted by existing law or nonfrivolous law 3 extending, modifying, or revising existing law? 4 A I mean, certainly in the litigation at 5 issue, that's something that you would look at that 6 would be proper for a court to consider in -- in a 7 particular case. 8 But if you're looking at some sort of character 9 evidence on that, just because a court found -- found 10 that in another case, it would not necessarily impact 11 the reasonableness in this case. And, like I said, 12 especially when you say it wouldn't necessarily result 13 in -- in higher bills. So that's something that in 14 every particular case, you would have to look at the 15 individual facts and see. 16 Q Did you do that here? 17 A I -- I've seen the litigation. I haven't 18 seen anything that I think has been duplicative or has 19 needlessly increased the cost of litigation. Matter 20 of fact, I think there's, you know, a number of issues 21 that have gone before the court that -- that 22 Plaintiffs have -- have won.</p>	<p style="text-align: right;">Page 80</p> <p>1 call for their production. 2 A Let me -- and I don't -- I don't want to 3 misspeak. I believe -- it may have been an oral 4 summary that I was given. I want to double check that 5 and -- given that this was about six months ago, I 6 will -- I'll be very clear to -- to let you know 7 whether it was a oral summary or some sort of written 8 summary. 9 Q That's fine. Well obviously, if it was a 10 written summary, I'm obviously entitled to it. 11 A Okay. 12 Q Okay. Wouldn't you like to know before you 13 opined -- as I think you just did -- that Mr. Biss's 14 behavior in this litigation was reasonable because you 15 said that the Plaintiffs want a couple things. Before 16 you reached the conclusion that that conduct was 17 reasonable, wouldn't you have liked to have seen how 18 long he took on it? 19 A I mean, when you -- when you look at the 20 docket itself, there's a lot that an experienced 21 attorney can see about how much work that goes into it 22 and how much value the client is getting out of it.</p>
<p style="text-align: right;">Page 79</p> <p>1 So if -- if there are specific issues, I'd be 2 happy to -- to be asked about those. But from what 3 I've seen, there's been no unnecessary or duplicative 4 litigation here. 5 Q Have you seen Mr. Biss's bills? 6 A I've been -- I -- previously, I think I've 7 been given a summary. But no. I have not seen all of 8 his bills to date. I anticipate when that -- we'll 9 see something more specific as the litigation 10 continues. 11 Q Have you seen time entries? Mr. Biss's time 12 entries? 13 A I have only seen a summary at this point, 14 which is -- is not -- is not inconsistent with a case 15 such as this, that is mostly -- you know, this blend 16 flat fee contingency type arrangement for where you're 17 at at this stage in a case like this. 18 Q So where did you get those summaries? 19 A From Mr. Biss. 20 Q I think those documents, which would be 21 documents you relied on in reaching your expert 22 opinion should have been produced to me, so I will</p>	<p style="text-align: right;">Page 81</p> <p>1 And at the end of the day, that's really what 2 we're looking at is how much effort, what is being put 3 in, what is the value to the client? Is this 4 something that is -- that is helping advance the case? 5 And that's especially important in a contingency fee 6 arrangement where you have to take into consideration 7 things like opportunity cost and the fact that while 8 lawyers working on that case and has risk involved in 9 advancing that case, a lawyer can be working on other 10 matters as -- as well. 11 So -- so I looked at the information that I 12 thought was necessary in order to render an expert 13 opinion. And to the extent, as litigation continues, 14 in a case like this, it certainly is going to be a 15 case where -- where litigation is continuing. And I - 16 - I anticipate it would be for those reasons -- to 17 supplement my report as time goes on. And of course, 18 should that be necessary, I will do that. 19 Q Just to be clear, as of right now you have 20 not seen or have any understanding of how long Mr. 21 Biss did or did not spend on any portion of this 22 litigation; correct?</p>

<p style="text-align: right;">Page 82</p> <p>1 A As far as time entries, no.</p> <p>2 Q Okay. In your expert report, you say that</p> <p>3 "Mr. Biss projects that he will devote well over</p> <p>4 20,000 hours to this litigation." It's on page 7 of</p> <p>5 your report. Do you remember writing that?</p> <p>6 A Can I -- can I see that report?</p> <p>7 Q Of course you can. That was Exhibit 430,</p> <p>8 potentially 431.</p> <p>9 Alexa will keep me honest.</p> <p>10 MS. PASTOR: Exhibit 430. Just a</p> <p>11 moment.</p> <p>12 MS. BOLGER: Okay. It's the 7 out of</p> <p>13 10. Sorry, keep going. Keep going to where it says</p> <p>14 at the top left, page 7 out of 10. Sorry, Alexa.</p> <p>15 Okay. Perfect.</p> <p>16 BY MS. BOLGER:</p> <p>17 Q You'll see there's a paragraph right there,</p> <p>18 Mr. Binnall. In which you say: "Fifth, the time</p> <p>19 limitation imposed by the client and circumstances are</p> <p>20 substantial. This case has almost taken two years to</p> <p>21 prosecute. Thousands of hours have been put in by Mr.</p> <p>22 Biss to date. Ultimately, Mr. Biss projects that he</p>	<p style="text-align: right;">Page 84</p> <p>1 case, very -- very possibly could have exceeded 20,000</p> <p>2 hours. And some of the other Dominion cases that are</p> <p>3 out there. And again, that's not just form one -- one</p> <p>4 timekeeper, but from all timekeepers combined from --</p> <p>5 for instance, doc reviewers combined and if it's a</p> <p>6 document heavy case, for instance, it would not be</p> <p>7 unusual for the amount of hours to be, you know, in</p> <p>8 the five digits when you -- when you look at -- at all</p> <p>9 that.</p> <p>10 Q And did you -- are you aware of whether Mr.</p> <p>11 Biss has any other timekeepers, as you put them, in</p> <p>12 his shop that work on this litigation?</p> <p>13 A Sitting here now, I -- I don't know that.</p> <p>14 And that's something that, again, when I actually do</p> <p>15 review the actual time records, will -- will have an</p> <p>16 impact on the actual effort, you know, taken in this</p> <p>17 case. And -- but as of right now, I've just been</p> <p>18 given that summary. And I believe so far, the summary</p> <p>19 is mostly Mr. Biss's time, and my memory is not clear</p> <p>20 enough to say if there are any other support personnel</p> <p>21 that are working on that.</p> <p>22 Which, on a contingency fee case, you know, may</p>
<p style="text-align: right;">Page 83</p> <p>1 will devote well over twenty thousand (20,000) hours</p> <p>2 to the litigation." Do you see that?</p> <p>3 A I do see that. And that was an estimate I</p> <p>4 got, I believe, from Mr. Biss. And obviously, it will</p> <p>5 be -- we'll need to see exactly how many hours</p> <p>6 actually are litigated. But that was the estimate</p> <p>7 that Mr. Biss gave me. I -- I anticipate that that</p> <p>8 includes 20,000 timekeeper hours. That may include</p> <p>9 other support personnel, other attorneys, et cetera,</p> <p>10 et cetera.</p> <p>11 Q As you sit here, have you ever litigated a</p> <p>12 false light claim that took 20,000 hours to litigate?</p> <p>13 A No, I have not.</p> <p>14 Q Are you aware of anybody who has ever</p> <p>15 litigated a defamation claim that took over 20,000</p> <p>16 hours to litigate?</p> <p>17 A Yeah. Probably. I can -- I can think of</p> <p>18 some high profile defamation cases where the -- the</p> <p>19 total staff, timekeeper billing almost certainly</p> <p>20 exceeds 20,000 hours.</p> <p>21 Q Who were those? What are those litigations?</p> <p>22 A I would anticipate that in the Dominion Fox</p>	<p style="text-align: right;">Page 85</p> <p>1 or may not include people that are -- are actually</p> <p>2 entering time into some sort of platform.</p> <p>3 Q Who else would be paid? Who else would be</p> <p>4 working on the case if he wasn't entering time into</p> <p>5 some kind of platform? I don't understand --</p> <p>6 A Oh, I'm just saying, for instance, on a</p> <p>7 contingency fee case, paralegals, law clerks, legal</p> <p>8 assistants would not necessarily be expected to enter</p> <p>9 time into a timekeeping platform. Summaries from them</p> <p>10 are something that would be appropriate in that case</p> <p>11 of, you know, what different work that they worked on</p> <p>12 and when. That would be something that would be fully</p> <p>13 appropriate when you're looking at contingency or in</p> <p>14 flat fee arrangements and hybrid agreements.</p> <p>15 Q But as you sit here, you don't know if any</p> <p>16 people other than Mr. Biss actually have ever worked</p> <p>17 on this case; right?</p> <p>18 A No, no I do not.</p> <p>19 Q I'm sorry?</p> <p>20 A I do not.</p> <p>21 Q And you don't know how many hours Mr. Biss</p> <p>22 has spent on this case?</p>

<p style="text-align: right;">Page 86</p> <p>1 A Yeah. Today, I -- I could not tell you as 2 of today how many. 3 Q Okay. 4 MS. BOLGER: Finally -- will you put 5 up, please -- Alexa, you can take that down. Thank 6 you very much. And put up tab 33, please. 7 BY MS. BOLGER: 8 Q Okay. Tab 33, which is Exhibit 443, is the 9 decision of the Fourth Circuit Court of Appeals in the 10 Lokhova vs. Halper matter. We looked earlier at a 11 decision in the District Court; this is the Fourth 12 Circuit. 13 (Exhibit 443 was marked for 14 identification.) 15 MS. BOLGER: Alexa, if you wouldn't 16 mind, go to the ninth page of the exhibit. 17 BY MS. BOLGER: 18 Q Okay. If you'll scroll down a little 19 there's "D", see "Appellee Halper's Motion for 20 Sanctions" and it reads "Appellee Halper contends the 21 district court abused its discretion in denying his 22 motion for sanctions against Appellant and attorney</p>	<p style="text-align: right;">Page 88</p> <p>1 behavior 'adds nothing but unnecessary heat to this 2 litigation.' But in the end, the district court 3 elected not to sanction Biss at this point and denied 4 the motion to sanction without prejudice. We agree 5 with the district court's observations and endorse the 6 court's reprimands citing inappropriate ad hominem 7 attacks. We conclude, however, that the district 8 court acted within its discretion because we are not 9 'left with the definite and firm conviction that a 10 mistake had been committed.'" And it remands the case 11 to decide if the district court wants there to be 12 sanctions. Were you aware of this decision when you 13 drafted your expert opinion? 14 A Yes. 15 Q And I assume it didn't change your opinion? 16 A It did not. 17 Q Why not? 18 A Same reason that I've -- I've already said. 19 It's, you know, first of all, they actually affirm the 20 decision if I -- memory serves right in reading this. 21 They affirm the decision not to sanction Mr. Biss. 22 And so, affirming a decision not to sanction</p>
<p style="text-align: right;">Page 87</p> <p>1 Biss." 2 And if you look at the top, if you scroll up to 3 the top of the ninth page, you'll see the paragraph 4 that begins: "Of note, this is not the first time 5 attorney Biss's litigation conduct has earned 6 reprimand. His history of unprofessional conduct is 7 long." And it cites the Nunes case and the Steele 8 case, which we actually hadn't talked about, and says: 9 "In fact, attorney Biss had his license suspended in 10 2009 for unprofessional conduct including breaching 11 fiduciary duties and violating federal securities law. 12 And, even during his suspension period, attorney Biss 13 failed to be forthright about his suspension status 14 with an opposing party when engaged in negotiations on 15 behalf of the client, resulting in an additional 30 16 day suspension of his license." 17 MS. BOLGER: It goes on if you scroll 18 down. Keep going. 19 BY MS. BOLGER: 20 Q "The district court chastised attorney Biss 21 for 'directing unprofessional ad hominem attacks at 22 [Appellee] Halper and others,' noting that such</p>	<p style="text-align: right;">Page 89</p> <p>1 someone, certainly wouldn't affect my -- my decision 2 on that. 3 Whether they thought that the language used was 4 appropriate and whether that was helpful for the 5 litigation, might be helpful if this attorneys' fee 6 dispute was in that case in that litigation. But it 7 tells me nothing about the issues in this case and 8 whether they were litigated through -- through similar 9 conduct. 10 And so, it just says as character evidence, it 11 would -- it would not mean that those -- that the 12 attorneys' fees were unreasonable because that court 13 opined. And what is, I think, quite frankly, dicta, 14 about Mr. Biss's conduct in another case. 15 Q Have you talked to Mr. Biss about this 16 decision? 17 A No, ma'am. 18 Q Wouldn't you have liked to have asked him a 19 couple questions, like, "Hey, what did you say there?" 20 Have you said anything like that here?" 21 A Well, I don't think that would be 22 particularly helpful. I mean, what I -- what I did</p>

<p style="text-align: right;">Page 90</p> <p>1 look at and what I did talk to him about was</p> <p>2 specifically about this case. And this case is what</p> <p>3 I'm opining on. You know, this isn't -- I wasn't</p> <p>4 writing a -- a biography on his legal career; I was</p> <p>5 writing about the appropriateness of legal fees in</p> <p>6 this case. And on that, I didn't see anything that</p> <p>7 would -- would raise my -- raise my attention that I</p> <p>8 would need to question anything further.</p> <p>9 Q But wouldn't you want to say in words or</p> <p>10 substance, "Hey, you know, Mr. Biss, I know that this</p> <p>11 court in the Fourth Circuit said that your behavior</p> <p>12 was -- there were allegations of improper behavior and</p> <p>13 that you should have been chastised." They</p> <p>14 specifically say "We agree with the district court's</p> <p>15 observation and endorse the court's reprimands</p> <p>16 concerning inappropriate ad hominem attacks." Right?</p> <p>17 So that's not dicta.</p> <p>18 "We agree with the court's observation and</p> <p>19 endorse the court's reprimands concerning</p> <p>20 inappropriate ad hominem attacks." Wouldn't you want</p> <p>21 to say, "Hey, Steve, I know you got in trouble for</p> <p>22 this once before, have you made any inappropriate ad</p>	<p style="text-align: right;">Page 92</p> <p>1 A Yes.</p> <p>2 Q And were you aware of that when you wrote</p> <p>3 your expert opinion?</p> <p>4 A I read the opinion.</p> <p>5 Q Okay. If you give me two seconds, I think</p> <p>6 I'm done. So just give me -- let's go off the records</p> <p>7 for two minutes and then we'll come back on.</p> <p>8 A Yes, ma'am.</p> <p>9 Q Thanks.</p> <p>10 THE VIDEOGRAPHER: Okay. Going off the</p> <p>11 record at 11:47.</p> <p>12 (Off the record.)</p> <p>13 THE VIDEOGRAPHER: Back on the record</p> <p>14 at 11:49.</p> <p>15 MS. BOLGER: Mr. Binnall, I have no</p> <p>16 further questions this morning and I thank you for</p> <p>17 your time.</p> <p>18 THE WITNESS: Thank you, ma'am.</p> <p>19 MR. BISS: No questions. He'll read.</p> <p>20 THE VIDEOGRAPHER: Okay. If that is</p> <p>21 everything -- I'm sorry. Go ahead, Counsel.</p> <p>22 MS. BOLGER: I said that was it. I was</p>
<p style="text-align: right;">Page 91</p> <p>1 hominem attacks here," before opining that you thought</p> <p>2 his fees were reasonable?</p> <p>3 A So first of all, it would still probably</p> <p>4 take issue that it's dicta because endorsing a</p> <p>5 reprimand is not something that's necessary to the</p> <p>6 court's ultimate holding. And so, that's why I think</p> <p>7 that it's -- it is dicta.</p> <p>8 Nevertheless, like I said, this is -- this was</p> <p>9 not an art in either character support or character</p> <p>10 assassination. It's looking at the reasonableness of</p> <p>11 attorneys' fees in this case. And whether or not</p> <p>12 there were phrasing used in another case that a court</p> <p>13 had disagreed with is not helpful for me as an expert</p> <p>14 in opining whether there was reasonableness of fees in</p> <p>15 this case.</p> <p>16 MS. BOLGER: Okay. Just go to the next</p> <p>17 page of this one, Alexa.</p> <p>18 BY MS. BOLGER:</p> <p>19 Q You'll see that the very top it says "We</p> <p>20 leave it to the district court whether it will</p> <p>21 ultimately join the chorus in sanctioning attorney</p> <p>22 Biss." Do you see that?</p>	<p style="text-align: right;">Page 93</p> <p>1 just going to say, thank you, again, Mr. Binnall.</p> <p>2 THE WITNESS: Thank you very much.</p> <p>3 Have a wonderful day.</p> <p>4 THE VIDEOGRAPHER: Okay. That is</p> <p>5 everything. We are going off the record on June 26,</p> <p>6 2023, at 11:49 a.m. Eastern time zone.</p> <p>7 (Signature reserved.)</p> <p>8 (Whereupon, at 11:49 a.m., the</p> <p>9 proceeding was concluded.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">Page 94</p> <p>1 CERTIFICATE OF DEPOSITION OFFICER</p> <p>2 I, MATTHEW YANCEY, the officer before whom</p> <p>3 the foregoing proceedings were taken, do hereby</p> <p>4 certify that any witness(es) in the foregoing</p> <p>5 proceedings, prior to testifying, were duly sworn;</p> <p>6 that the proceedings were recorded by me and</p> <p>7 thereafter reduced to typewriting by a qualified</p> <p>8 transcriptionist; that said digital audio recording of</p> <p>9 said proceedings are a true and accurate record to the</p> <p>10 best of my knowledge, skills, and ability; that I am</p> <p>11 neither counsel for, related to, nor employed by any</p> <p>12 of the parties to the action in which this was taken;</p> <p>13 and, further, that I am not a relative or employee of</p> <p>14 any counsel or attorney employed by the parties</p> <p>15 hereto, nor financially or otherwise interested in the</p> <p>16 outcome of this act:---</p> <p style="text-align: center;"></p> <p style="text-align: center;">MATTHEW YANCEY</p> <p style="text-align: center;">Notary Public in and for the</p> <p style="text-align: center;">State of New York</p> <p>21 [X] Review of the transcript was requested.</p> <p>22</p>	<p style="text-align: right;">Page 96</p> <p>1 Flynn, John P. "Jack" Et Al v. Cable News Network Inc.</p> <p>2 Jesse Binnall</p> <p>3 INSTRUCTIONS TO THE WITNESS</p> <p>4 Please read your deposition over</p> <p>5 carefully and make any necessary corrections.</p> <p>6 You should state the reason in the</p> <p>7 appropriate space on the errata sheet for any</p> <p>8 corrections that are made.</p> <p>9 After doing so, please sign the errata</p> <p>10 sheet and date it.</p> <p>11 You are signing same subject to the</p> <p>12 changes you have noted on the errata sheet,</p> <p>13 which will be attached to your deposition.</p> <p>14 It is imperative that you return the</p> <p>15 original errata sheet to the deposing</p> <p>16 attorney within thirty (30) days of receipt</p> <p>17 of the deposition transcript by you. If you</p> <p>18 fail to do so, the deposition transcript may</p> <p>19 be deemed to be accurate and may be used in</p> <p>20 court.</p> <p>21</p> <p>22 5974792</p>
<p style="text-align: right;">Page 95</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, BRITTANY-TIANA AMOROSO, do hereby certify</p> <p>3 that this transcript was prepared from the digital</p> <p>4 audio recording of the foregoing proceeding, that said</p> <p>5 transcript is a true and accurate record of the</p> <p>6 proceedings to the best of my knowledge, skills, and</p> <p>7 ability; that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to the action in</p> <p>9 which this was taken; and, further, that I am not a</p> <p>10 relative or employee of any counsel or attorney</p> <p>11 employed by the parties hereto, nor financially or</p> <p>12 otherwise interested in the outcome of this action.</p> <p>13</p> <p>14</p> <p style="text-align: center;"></p> <p style="text-align: center;">BRITTANY-TIANA AMOROSO</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 97</p> <p>1 Flynn, John P. "Jack" Et Al v. Cable News Network Inc.</p> <p>2 Jesse Binnall</p> <p>3 E R R A T A</p> <p>4 -----</p> <p>5 PAGE LINE CHANGE</p> <p>6 -----</p> <p>7 Reason: _____</p> <p>8 -----</p> <p>9 Reason: _____</p> <p>10 -----</p> <p>11 Reason: _____</p> <p>12 -----</p> <p>13 Reason: _____</p> <p>14 -----</p> <p>15 Reason: _____</p> <p>16 -----</p> <p>17 Reason: _____</p> <p>18 -----</p> <p>19 Reason: _____</p> <p>20 -----</p> <p>21</p> <p>22 5974792</p>

<div>Page 98</div> <div>1 Flynn, John P. "Jack" Et Al v. Cable News Network Inc.</div> <div>2 Jesse Binnall</div> <div>3 ACKNOWLEDGMENT OF DEPONENT</div> <div>4 I, _____, do</div> <div>5 hereby certify that I have read the foregoing</div> <div>6 pages and that the same is a correct</div> <div>7 transcription of the answers given by</div> <div>8 me to the questions therein propounded,</div> <div>9 except for the corrections or changes in form</div> <div>10 or substance, if any, noted in the attached</div> <div>11 Errata Sheet.</div> <div>12</div> <div>13 _____</div> <div>14 DATE SIGNATURE</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22 5974792</div>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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